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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/226,088 01/05/99 MONTGOMERY

D 16650004US01

EXAMINER

027194 MM91/0309
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RICHARDS, N.

ART UNIT

PAPER NUMBER

2815

DATE MAILED:

03/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/226,088	Applicant(s) MONTGOMERY, DONALD D.	
	Examiner N. Drew Richards	Art Unit 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 and 20-22 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|---|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: |

DETAILED ACTION

Priority

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1.78).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 recites the limitation "the electrochemical reactants" in lines 2 and 3.

There is insufficient antecedent basis for this limitation in the claim.

4. Claim 19 recites the limitation "the electrodes" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 15, from which claim 19 depends, does not claim plural electrodes.

5. Insofar as definite, the claims are rejected as follows. Claim 19 is rejected as claiming a single electrode as claim 15 only provides antecedent basis for a single electrode.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 15, 16, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenblatt (U.S. Patent No. 5,944,970).

Rosenblatt discloses an integrated circuit device for use in or exposure to an ionic solution on columns 1-8 and in figures 1-25. Specifically, Rosenblatt discloses a semiconductor device 100 having at least one electrical element 120, a layer of non-conductive substrate material 108, 102 (wherein 108 is nonconductive) used in semiconductor manufacture, and an electrically conductive region of the substrate 102 surrounded by an electrically insulating region 108 to form an electrode, and a means for generating an electric field within the layer of substrate material whereby the electric field generated is confined to the layer of substrate material. The electric field is generated in 102 when a potential is applied to layer 118.

With regard to claim 16, the electrode 102 has a first surface exposed to the ionic solution and a second surface exposed to the substrate material 108.

With regard to claim 19, Rosenblatt discloses that the electrode 102 exposed to the ionic solution is separately addressable. The electrode is separately addressable as it is the only electrode and therefore cannot be addressed with another electrode.

Allowable Subject Matter

8. Claims 17, 20, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach, disclose, or suggest, alone or in combination, forming a device to be exposed to an ionic solution having a buffering capacity such that protons and hydroxyl ions are buffered. Neither does the prior art suggest forming a getter structure as means for generating an electric field within the layer of substrate material.

Response to Arguments

10. Applicant's arguments with respect to claims 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Applicant stated in their amendment that Rosenblatt is not prior art to the pending claims as its filing date is after the effective priority dates of this CIP application. This argument is not persuasive as there is nothing on the record establishing a priority date earlier than the filing date of Rosenblatt. The only priority of record is to Application No. 09/003,075 having a filing date of January 5, 1998. This date is not sufficient to overcome the April 29, 1997 filing date of the Rosenblatt reference.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

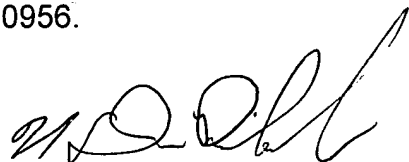
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Drew Richards whose telephone number is (703) 306-5946. The examiner can normally be reached on M-F 8:00-5:30; Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lee can be reached on (703) 308-1690. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Art Unit: 2815

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



NDR
March 7, 2001



EDDIE LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800